

MDL 1713

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

OCT 31 2005

RELEASED FOR PUBLICATION

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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE BANK OF AMERICA ATM FEE LITIGATION

Stephen Cawelti v. Bank of America, N.A., C.D. California, C.A. No. 2:05-2680

James A. Prosser v. Bank of America, N.A., D. Maryland, C.A. No. 1:05-1134

Douglas S. Brown v. Bank of America, N.A., D. Massachusetts, C.A. No. 1:05-10713

**BEFORE WM. TERRELL HODGES,* CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

TRANSFER ORDER

This litigation currently consists of one action pending in each of the following districts: the Central District of California, the District of Maryland and the District of Massachusetts. The parties to these actions jointly move the Panel, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation in the District of Massachusetts.

On the basis of the papers filed and hearing session held, the Panel finds that these three actions involve common questions of fact, and that centralization under Section 1407 in the District of Massachusetts will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. These actions share factual questions regarding whether Bank of America, N.A. (Bank of America) failed to properly disclose that a fee would be charged to non-Bank of America customers who used a Bank of America automatic teller machine. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the District of Massachusetts is an appropriate transferee forum for this litigation. The District of Massachusetts i) contains the first-filed action; and ii) enjoys the support of all parties.

* Judge Hodges took no part in the decision of this matter.

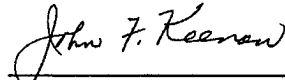
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IMAGED OCT 31 2005

PLEADING NO. 7

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions pending outside the District of Massachusetts are transferred to the District of Massachusetts and, with the consent of that court, assigned to the Honorable Patti B. Saris for coordinated or consolidated pretrial proceedings with the action pending in that district.

FOR THE PANEL:

A handwritten signature in cursive script, reading "John F. Keenan". The signature is written in dark ink and is positioned above a horizontal line.

John F. Keenan
Acting Chairman